

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8181 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

PG VYAS

Versus

STATE OF GUJARAT

Appearance:

MR IS SUPEHIA for Petitioners

MR HS MUNSHAW for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 06/08/1999

ORAL JUDGEMENT

Heard learned counsel for the parties.

The petitioner Nos. 1 & 3 are serving as Assistant Child Development Project Officer and the petitioner No.2 is serving as Mukhya Sevika under the Mehsana District Panchayat. On completion of 9 years of their service in the cadre as per the higher pay scale benefits what is

stated that they are entitled for the higher pay scale of Rs.2000-3500 but that has not been granted to the petitioners only on the ground that they have not passed the prescribed departmental examination for promotion to higher post in the channel of promotion from the feeder cadre.

I find sufficient merits in the submission of the learned counsel for the petitioners and which is not strongly opposed by the counsel for the respondents that the Child Development Project (Female) in the Gujarat Public Health Service Examination Rules, 1993 have come into force after the date on which the petitioners have already completed 9 years in the feeder cadre and the respondents could not have insisted for passing of the examination by them to make themselves eligible for the benefits of the higher pay scale. From the Rules, aforesaid I find that they have brought into force from the date of their publication in the official gazette. The notification of those Rules is dated 14/1/1993 and in all the eventuality their publication in the official gazette could not have been earlier to 14/1/1993.

The learned counsel for the respondents are in agreement that this is the only ground on the basis of which the petitioners were not given the benefit of the higher pay scale. The ground on the basis of which the petitioners have been denied the benefits of the higher pay scale is legally not sustainable and this petition deserves to be allowed.

In the result, this Special Civil Application succeeds and the same is allowed and the respondents are directed to consider the case of the petitioners for the benefits of higher pay scale as per the Government Resolution dated 16/8/1994 and in case they are found eligible and entitled for these benefits then these benefits may be given to them from the date as it would have been available to them under the resolution, aforesaid.

Rule is made absolute in the aforesaid terms with no order as to costs.

(S.K.Keshote, J.)

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